

NEBRASKA DEPARTMENT  
OF INSURANCE

NOV 21 2000

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

IN THE MATTER OF:  
KENNETH MARK KAHN  
DENIAL OF AGENT LICENSE

)  
) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW,  
) RECOMMENDED ORDER AND  
) ORDER  
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CAUSE NO. A- 1415

This matter came on for hearing on the 20th day of November, 2000, before Manuel Montelongo, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Linda Sanchez-Masi. Kenneth Mark Kahn, ("Respondent"), was not present and was not represented by an attorney. The proceedings were tape recorded by Stacey Bellefeuille, a licensed Notary Public. Evidence was introduced, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. On or about August 14, 2000, the Respondent applied to reinstate his Nebraska resident insurance agent's license. Respondent's address on his application is 1418 N. 149<sup>th</sup> Court, Omaha, NE 68154.
2. The Department is the agency of the State of Nebraska charged with licensing insurance agents and brokers.

3. On or about August 29, 2000, the Department denied the Respondent's application to reinstate his Nebraska resident insurance agent license. The Department granted the Respondent's request for a hearing even though his request was made after the thirty day request period set forth in Neb.Rev.Stat. §44-4027.

4. The Notice of Hearing was served upon the Respondent by mailing the same to his address of record by certified mail, return receipt requested. Respondent received the Notice of Hearing on November 8, 2000, as evidenced by the return receipt card attached to Exhibit #6.

5. On or about July 10, 2000, a Douglas County Court judge in Omaha, Nebraska, entered an Order removing the Respondent as trustee of the Guinter Kahn Trust. Further, the Order states "The trust is hereby ordered a surcharge judgment against the former trustee, Kenneth A. Kahn, in the amount of \$31,266.67 plus accrued interest, the monies he has misappropriated from the trust assets including but not limited to a loan against the life insurance policy which should have been owned by the Guinter Kahn Irrevocable Trust." The Respondent's only evidence submitted at the hearing before the Department was a letter to the Department stating that the Order entered in the Douglas County Court was an incorrect finding.

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001 et seq.

2. The Department has personal jurisdiction over Respondent.

3. The Respondent's conviction of misappropriation of funds from the Guinter Kahn Trust evidences he violated Neb.Rev.Stat. §44-4027, which allows the Department to deny the Respondent's application for reinstatement of his insurance agent license. Neb.Rev.Stat. §44-4027 provides that the Director of the Department may deny an application for an insurance agent license

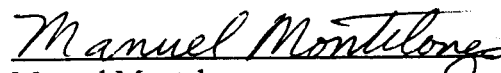
if the applicant has engaged in any fraud, misrepresentation or dishonest practice, or has not demonstrated trustworthiness or competency to transact business in such a manner as to safeguard the public.

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Respondent's application for a Nebraska resident insurance agent license be denied.

Dated this 21 day of November, 2000.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
Manuel Montelongo  
HEARING OFFICER

#### CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of Kenneth Mark Hahn, denial of license, Cause No. A-1415.

Dated this 21 day of November, 2000.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at 1418 N. 149<sup>th</sup> Street, Omaha, NE 68154 by certified mail, return receipt requested, on this 21 day of November, 2000.

Stacey M. Bulefunt